



U.S. Department of Justice

United States Attorney  
Southern District of New York

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April 9, 2024

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**VIA ECF**

Honorable Valerie E. Caproni  
United States District Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

**MEMO ENDORSED**

Re: *National Organization for Women-New York City v.*  
*U.S. Department of Defense, et al., 23 Civ. 6750 (VEC)*

Dear Judge Caproni:

This Office and the Department of Justice's Civil Division represent defendants U.S. Department of Defense ("DoD") and U.S. Department of Veterans Affairs ("VA") (together, "Defendants") in the above-referenced action commenced by plaintiff National Organization for Women-New York City ("Plaintiff"), which challenges certain DoD and VA policies relating to the provision of in vitro fertilization ("IVF") services to qualifying active-duty service members and veterans, respectively. We write respectfully to request that Defendants' current April 15, 2024 deadline for responding to Plaintiff's claims related to Defendants' Marriage Requirement, Member Gamete Requirement, and Coital Requirement (collectively, the "Stayed Claims"), as set forth in the Court's January 2, and March 13, 2024 Orders (ECF Nos. 31, 50), be extended to a date that is 14 days after the Court has adjudicated Defendants' motion to dismiss the Amended Complaint. This is Defendants' first request for an extension of time to respond to the Stayed Claims. Plaintiff consents to this request.

As Defendants reported to the Court last month, on March 8, 2024, DoD issued an amended policy governing its IVF benefits. (ECF Nos. 49, 49-1). On April 4, 2024, VA published in the *Federal Register* a policy statement detailing new changes to its IVF benefits policy. 89 Fed. Reg. 23518 (April 4, 2024). The extension is therefore requested to allow Plaintiff additional time to determine whether it will voluntarily dismiss the Stayed Claims and, if not, for the parties to determine how they can most efficiently litigate them.

We thank the Court for its consideration of this letter.

Respectfully submitted,

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cc: All Counsel of Record (via ECF)

Application GRANTED. Upon consent of the Plaintiff and to allow time for Plaintiff to determine whether voluntary dismissal is appropriate, Defendants' deadline to answer or otherwise respond to the Stayed Claims is extended until 14 days after the Court resolves the Defendants' pending motion to dismiss the remaining unstayed claims.

SO ORDERED.



4/9/2024

HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE